IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1694 OF 2007

Sunil Bhaskar Naik.... .....
Petitioner
V/s
M/s.Mode Advertising & Marketing Pvt. Ltd. & Ors.... .....
Respondents.

Office Notes, Office Memoranda of Coram, appearances Court's orders or directions and Registrar's orders.) Court's or Judge's Orders

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Mr.J.M.D'Silva, Adv. for the petitioner.

Mr.Tariq Baig i/by D.R.Mahadik for respondent Nos.1 and 2.

CORAM: A.P. DESHPANDE, J.
12.3.2007

PC:

The judgment and order passed by the Industrial Court in revision application filed under section 44 of Maharashtra Recognition of Trade Union & Prevention of Unfair Labour Practices Act, 1971 (the “Act”), allowing the revision by setting aside the judgment and order passed by the Labour Court is challenged in the present petition. The

Labour Court had held that the petitioner is workman performing skilled manual and technical work. Whereas the Industrial Court reversing the said finding had held that the petitioner does not satisfy the test laid down under section 2(s) which defines the “workman” and thus allowing the revision has quashed the order passed by the Labour Court.

On the own showing of the petitioner, the petitioner was working as an Art Director with the respondent-company receiving a salary of Rs.25,000/- per month at the time of his termination. Perusal of the complaint reveals that the petitioner was qualified artist from J.J. School of Arts and his qualifications are G.D.Art, A.M. which is post graduate degree in commercial art. The petitioner also claims that he has varied and vast experience and has received various awards for meritorious services such as Maharashtra State Award. He claims to have received the same on four occasions. In regard to the

nature of job the petitioner has stated that he is skilled artist and painter. The petitioner was required to visualise advertisement concept as required by client of the respondent-company and while so visualising the subject matter the complainant was required to draw artistic picture with colours of various specimens of the concept and the ideas and further required to take photographs and video shootings. Taking over all view of the nature of duties and its performance by the petitioner, the Industrial Court has held that the nature of job was original as the petitioner was required to visualise concept of advertisement for the client of respondent No.1-company. The complainant being sole master of concept and the ideas behind advertisement, he cannot be termed as workman, is the finding recorded by the Industrial Court. I am in agreement with the view taken by the Industrial Court and as there is no merit in the writ

petition same is dismissed.

12.3.07.